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CUBIST
PHARMACEUTICALS

Fax

To: Deposit Account Branch

From: Viana Daly

Intellectual Property Administrator

Tel: 781 860 8469

Fax: 781-860 1407

Fax: 703 308 6778

Pages: 6 (Including cover sheet)

Phone:

Date: March 11, 2004

Re: Deposit Account 50-1986

CC:

Urgent For Review Please Comment Please Reply Please Recycle

Comments:

According to our February 2004 statement, large entity fees were deducted from our deposit account for activity in USSN 10/211,028 (Docket No. C088/P) and 10/082,544 (Docket No. C053/C2). Cubist Pharmaceuticals, Inc. is a small entity. Therefore, we respectfully request that you refund the sum of \$320.00, which is the difference between the total small and large entity fees. Copies of the pertinent statement and authorizations are attached.

Thank you for your attention to this matter. Please contact me with any questions.

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USPTO Dep AcctFAX(refundreq) 031104.doc

65 Hayden Avenue, Lexington, MA 02421

P. 781-860-8660

F781-860-1407

www.cubist.com

PTO-922/20 (03-06)

Approved for use through 07/31/2008. OMB 0331-0031

**TERMINAL DISCLAIMER TO OBLVIAE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

In re Application of: **Frederick B. Oleson, Jr., et al.**
Application No.: **10/082,544**

Date: February 20, 2002

METHODS FOR ADMINISTRATION OF ANTIBIOTICS
Cubist Pharmaceuticals.

The owner, JDC, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 164 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,468,967. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is released, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record.

13/2004 MAUSTIN 00000001 501986 10082544
FC:1814 110.00 DQ

Signature Printed Name Date
Timothy J. Dourdos
Typed or printed name
781 860 8660

- Terminal disclaimer fee under 37 CFR 1.20(f)(1) included

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**Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB-06 may be used for making this certification. See 14 CFR 2.324.*

This collection of information is required by 37 CFR 1.221. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 13 minutes to complete. Including gathering, preparing, and transmitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND T : Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PAGE 5/16 • RCVT AT 2024-04-24 10:34:34 PM Eastern Standard Time • SVR-USPTO-EF0XRF-112 • DMS-8722001 • CSD-7815816568 • DURATION 00:00:53-03:42

Adjustment date: 03/30/2004 SDIRETA1
06/13/2004 MARSTIN 0000000 501986 10082544
01 FC: ~~100~~ 10.00 CR

03/30/2004 SDIRETA1 00000003 501986 10082544
06 EC-2A14 55.00 DA

PTO/SB/73 (10-99)

Approved for use through 10/31/2002. CMS 0651-0031

U.S. Patent and Trademark Office U.S. DEPARTMENT OF COMMERCE

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.138(a)		Docket Number (Optional) C035/C2
In re Application of <u>Frederick B. Olson, Jr., et al.</u>		
Application Number <u>10/082,544</u>	Filed <u>February 20, 2002</u>	
For METHODS FOR ADMINISTRATION OF ANTIBIOTICS		
Group Art Unit <u>1816</u>	Examiner <u>Frank J. Choi</u>	

This is a request under the provisions of 37 CFR 1.138(a) to extend the period for filing a Reply in the above identified specification.

The requested extension and appropriate non-small-entity fee are as follows (check time period desired):

- | | | |
|-------------------------------------|----------------------------------|-----------|
| <input checked="" type="checkbox"/> | One month (37 CFR 1.17(e)(1)) | \$ 110.00 |
| <input type="checkbox"/> | Two months (37 CFR 1.17(e)(2)) | \$ |
| <input type="checkbox"/> | Three months (37 CFR 1.17(e)(3)) | \$ |
| <input type="checkbox"/> | Four months (37 CFR 1.17(e)(4)) | \$ |
| <input type="checkbox"/> | Five months (37 CFR 1.17(e)(5)) | \$ |

Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown above is reduced by one-half, and the resulting fee is: \$ 55.00.

A check in the amount of the fee is enclosed.

Payment by credit card. Form PTO-2038 is attached.

The Commissioner has already been authorized to charge fees in this application to a Deposit Account.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-1986.

I have enclosed a duplicate copy of this sheet.

applicant/inventor
 assignee of record of the entire interest. See 37 CFR 3.71.
 attorney or agent of record.
 attorney or agent under 37 CFR 1.34(a).

Registration number if acting under 37 CFR 1.34(a)

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February 3, 2004

Dot

Timothy J. Dwyer
Signature

Timothy J. Donaghy

Typed or printed name

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

Borden New Settlement: This form is submitted by telephone, fax and e-mail, and very frequently uses the details of the individual case. Any comments or instructions you send regarding this form should be sent to the Civil Information Office, U.S. Parole and Probation Office, Washington, DC 20530. DO NOT SEND SERIALIZED COPY OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Acting Commissioner for Parole, Washington, DC 20530.

3/12/2004 MAUSTIN

11 FC:1251

PAGE 318 * ECD AT 2/27/2004 4:34:34 PM [Eastern Standard Time] * SVC:USPTO-EXIF-12 * CMS:3720084 * CSID:7818810565 * DURATION (min):63:03:42

~~AMERICAN DATE: 08-30-2004 SP/RETAIL
VE/15/2004 MANUFACTURE 00000001 501986 10082544
01 FC 1000 10.00 CN~~

03/30/2004 SDIRETA1 00000003 501986 10082544

01 FC:2251 55.00 DA

PTO/SB/17 (10-03)

Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL

for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

 Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known	
Application Number	10/082,544
Filing Date	February 20, 2002
First Named Inventor	Frederick B. Oleson, Jr.
Examiner Name	Frank I. Choi
Art Unit	1616
Attorney Docket No.	C053/C2

METHOD OF PAYMENT (check all that apply)

 Check Credit card Money Order Other None
 Deposit Account:Deposit Account Number
50-1986Deposit Account Name
Cubist Pharmaceuticals

The Director is authorized to: (check all that apply)

- Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or any underpayment of fee(s)
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051	130	2051 65 Surcharge - late filing fee or oath	
1052	50	2052 25 Surcharge - late provisional filing fee or cover sheet	
1053	130	1053 130 Non-English specification	
1812	2,520	1812 2,520 For filing a request for ex parte reexamination	
1804	920*	1804 920* Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805 1,840* Requesting publication of SIR after Examiner action	
1251	110	2251 55 Extension for reply within first month	55.00
1252	420	2252 210 Extension for reply within second month	
1253	950	2253 475 Extension for reply within third month	
1254	1,480	2254 740 Extension for reply within fourth month	
1255	2,010	2255 1,005 Extension for reply within fifth month	
1401	330	2401 165 Notice of Appeal	
1402	330	2402 165 Filing a brief in support of an appeal	
1403	290	2403 145 Request for oral hearing	
1451	1,510	1451 1,510 Petition to institute a public use proceeding	
1452	110	2452 55 Petition to revive - unavoidable	
1453	1,330	2453 665 Petition to revive - unintentional	
1501	1,330	2501 665 Utility issue fee (or reissue)	
1502	480	2502 240 Design issue fee	
1503	640	2503 320 Plant issue fee	
1460	130	1460 130 Petitions to the Commissioner	
1807	50	1807 50 Processing fee under 37 CFR 1.17(q)	
1806	180	1806 180 Submission of Information Disclosure Stmt	
8021	40	8021 40 Recording each patent assignment per property (times number of properties)	
1809	770	2809 385 Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810 385 For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801 385 Request for Continued Examination (RCE)	
1802	900	1802 900 Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 55.00)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE			
Large Entity	Small Entity		
Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
Total Claims 57	-20** = 37	x 9	333
Independent Claims 3	- 3** = 0	x 43	0
Multiple Dependent		=	
SUBTOTAL (2) (\$ 333.00)			

** or number previously paid, if greater. For Reissues, see above

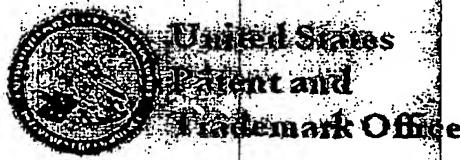
SUBMITTED BY		(Complete if applicable)	
Name (Print/Type)	Signature	Registration No. (Attorney/Agent)	Telephone
Timothy J. Donohue		41,716	781 860 8660

Date February 3, 2004

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Deposit Account Statement**Requested Statement Month:**

February 2004

Deposit Account Number:

501986

Name:

CUBIST PHARMACEUTICALS, INC

Attention:

TIMOTHY J DOUROS

Address:

65 HAYDEN AVE

City:

LEXINGTON

State:

MA

Zip:

02421

DATE SEQ	REF TXT	POSTING ATTORNEY	DOCKET NBR	FEE CODE	AMT	BAL
02/02 99	10211028	C068/P	1252		\$420.00	\$4,679.00
02/12 1	10082544	CUB-ICON	1251		\$110.00	\$4,569.00
02/13 1	10082544	CUB-ICON	1814		\$110.00	\$4,459.00

COS3/KR

START BALANCE	SUM OF CHARGES	SUM OF REPLENISH	END BALANCE
\$5,099.00	\$640.00	\$0.00	\$4,459.00

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